

REMARKS

Applicant respectfully requests entry of the above amendment and reconsideration in view of the amendment and the following remarks. The status of the application is as follows:

Claims 1-29 are pending in the application. Claims 1-24 were in the original application, as filed. Claims 25-29 were previously added via two preliminary amendments. Claims 30-32 are added herein.

Claims 5-9, 13-15, 18-20, and 27-29 are objected to as being dependent upon rejected base claims. Applicant gratefully acknowledges the objection and has cosmetically modified claims 5, 6, 13, 18, 19, and 27-29 to address the objection.

Double Patenting Rejection

The Examiner rejected claims 1-26 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-25 of U.S. Patent No. 6,866,447. In response, Applicant has agreed to file a terminal disclaimer which is included herewith.

Rejections under 35 U.S.C. 102(b)

Claims 1-3, 10-12, 16, 17, and 21 are rejected under 35 U.S.C. §102(b) as being anticipated by US Patent No. 3,965,686 Saito *et al.* Applicant respectfully traverses the rejection in that Saito *et al.* does not teach, or suggest, each and every element of the claimed invention as is required under §102(b). Note that with the exception of the Office Action Summary, there were no explicit reasoning provided for the rejection of claims 4 and 22-26 in the Office Action.

Rejections under Saito et al.

First, Saito does not teach, or suggest, every aspect of independent claim 1, as amended. Specifically, Saito does not teach, or suggest, "a first duct member in **unobstructed adjacency** with a second duct member," as in claim 1 (emphasis added). In Saito, the spiral springs 4 are *never adjacent and* in an **unobstructed adjacency** relationship with each other as they are in the instant invention. Saito discloses that there must be the interstitial "non-woven fabric layer 2" located between the spring 4. Even the drain pipes 13 in the embodiment shown in FIG. 5 must be surrounded by the drainage mat 12. Ultimately, Saito does not teach or suggest, nor is it obvious in light of Saito to have, any type of unobstructed adjacency between members, as there is in claim 1. The rejection of claim 1 should be withdrawn and the claim allowed. Because claims 2-10 and 27 depend from claim 1, they too are in condition of allowance.

Second, regarding independent claim 11, similarly Saito does not teach, or suggest, "[a] drainage support array comprising two or more skeletal ducts in **unobstructed adjacent registry**" as in independent claim 11 (emphasis added). As discussed above regarding claim 1, Saito only discloses springs 4 that are distal to each other. They (spring 4) are never in an immediate unobstructed adjacent relationship as in the present invention. Note, for example, that the springs 4, in Figure 1, are spaced apart and surrounded by a non-woven fabric layer 2. Similarly, the embodiment of Saito shown in figure 5 requires spaced apart units 11 with obstructions (i.e., soil 15) between the units. The abstract in Saito supports this requisite and different configuration. "A flexible elongated member is embedded in a coarse non-woven fabric layer." (See Abstract). The rejection of claim 11 should be withdrawn and the claim allowed. Because claims 12-16 and 28 depend from claim 11, they too are in condition of allowance.

Third, regarding independent claim 17, Saito also does not teach, or suggest, "two or more flexible skeletal ducts coupled in an unobstructed parallel adjacent registry," as in

independent claim 17. Similar to the above discussion regarding claims 1 and 11, Saito clearly does not contemplate creating any type of an unobstructed parallel adjacent registry. Further, the elements in Saito are not "coupled" in any way. The springs 4 in Saito are merely embedded within and spaced apart in the fabric 2 (see Fig. 1). The rejection of claim 17 should be withdrawn and the claim allowed. Because claims 18-21 and 29 depend from claim 17, they too are in condition of allowance.

In Saito itself, there is explicit teaching away from the present invention's configurations and disclosure to *always* have a spring 3 fully and closely surrounded by drainage material and, thus, *never* in unobstructed proximity to another spring 3. To wit: "In any of the first to third embodiments, ... the interval between every two adjacent flexible members is **more than 5 cm and preferably about 10 cm.**" (Emphasis added) (Col. 3, lines 10-14). Further, "**each spiral spring 4 is closely surrounded by the non-woven fabric of the layer 2 or partially embedded therein.**" (Emphasis added) (Col. 2, lines 51-53). This is a clear teaching away of any suggestion in Saito of the relationship of elements as claimed in independent claims 1, 11, and 17.

Fourth, regarding independent claim 22, Saito also does not teach, or suggest, "each element disposed in essentially orthogonal extension from a common and integrally bonded **longeron and concomitantly disposed along the longeron,**" as in claim 22. Clearly, there is nothing resembling a "longeron" in any of the embodiments of Saito. The rejection of claim 22 should be withdrawn and the claim allowed. Because claims 23-26 depend from claim 22, they too are in condition of allowance.

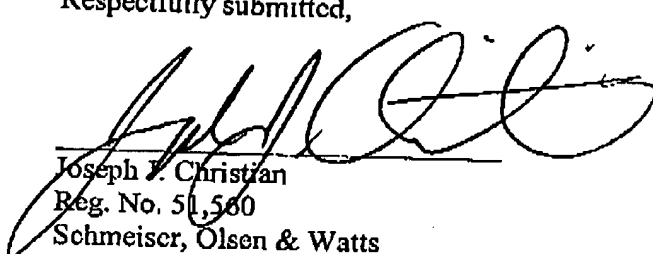
CONCLUSION

Accordingly, based on the preceding arguments, Applicant respectfully submits that claims 1-32 and the entire application, are in condition for allowance and therefore request favorable action. However, should the Examiner believe anything further is necessary in order place the application in better condition for allowance, or if the Examiner believes that a telephone interview would be advantageous to resolve the issues presented, the Examiner is invited to contact the Applicant's undersigned representative at the telephone number listed below. The Director is hereby authorized to charge and/or credit Deposit Account No. 19-0513.

Date:

7/7/05

Respectfully submitted,



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